(1)

IN THE HON'BLE HIGH COURT OF CHHATTISGARH AT BILASPUR.

WRIT PETITION NO. 1124 OF 2004

PETITIONER : Prakash Chand Soni, son of Shri Baldev Prasad Soni, aged about 39 years, Panchayat Karmi (Sacheew) Gram Panchayat Bagdumar, Vikash Khand Dhamdha, Tahsil Dhamdha, District Durg (C.G.), resident of village Bagdumar, Post Office Ahiwara Sub-Tahsil Ahiwara, Distt. Durg (C.G.).

VERSUS

RESPONDENTS :

1. State of Chhattisgarh Through - The Secretary Panchayat & Ruler Development Department D.K.S. Bhawan G.E. Road, Raipur.

2. Collector, Durg.

3. Gram Panchayat Bagdumar, Tah. Dhamdha, Distt. Durg. Through - Sarpanch Gram Panchayat Bagdumar, Tah. Dhamdha, District Durg.

P. R. No. 978/04
Presented by Shri H. B. Agrawal
dated 01.04.04

PETITION UNDER ARTICLE 226 OF CONSTITUTION OF THE INDIA.

XI-HC-22

(44)

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

मामला क्रमांक WP 1124/04 **सन् 200**

..... विरुद्ध .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

6.7.2005

Petitioner by Shri Ajay Shrivastava, Advocate.

Respondents No 1 and 2 by Shri Pankaj Shrivastava, Advocate.

Respondent No.3 by Shri Ranbir Singh, Advocate.

Heard.

The present petition has been filed under Article 226 of the Constitution of India by the petitioner impugning the termination order dated 2.1.2003 and 3.1.2003 which have been passed in compliance with the resolution No.1 passed by the Gram Sabha in its meeting dated 30.12.2002.

The facts in nutshell of the case are that the petitioner was appointed as Panchayat Karmi vide order dated 8.11.1995. The services of the petitioner was terminated vide order dated 2.1.2003 and 3.1.2003. The petitioner challenges the impugned orders being illegal and contrary to the provisions of the Panchayat Service (Discipline and Appeal) Rules 1999 (in brief "the Rules 1999"). It is contended by learned counsel for the petitioner that Rule 7

(पीछे देखिये)

(45)

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

W.P. 1124/04

मामला क्रमांक ..... सन् 200

..... विरुद्ध .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित — 2 —	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

of the Rules 1999 prescribes a formal enquiry before imposing penalty specified in clause (iv) to (vi a) of Rule 5. According to Rule 5(b) of Rules 1999 major penalty includes dismissal from service. Learned counsel for the petitioner further contends that the impugned termination orders have been passed without formal enquiry as contemplated in Rule 7 of the Rules 1999 as such the termination order is bad, illegal and deserves to be quashed.

Learned counsel for the petitioner refers to a decision of this Court passed in W.P.No. 594/2003 on 15.3.2004 wherein in the identical facts of the case, the writ petition was allowed and the termination order was quashed.

Shri Ranbir Singh learned counsel for the Respondent No.3 submits that a show cause notice was issued to the petitioner but the petitioner has refused to take the notice and not replied to the said notice. Failure on the part of the petitioner in not receiving the notice and by not filing reply to the show cause notice amounts to sufficient compliance of the provisions of Rule 7 of the Rules, 1999.

(पीछे देखिये)

(46)

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

मामला क्रमांक W.P. 1124/04 **सन्** **200**

..... **विरुद्ध** .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित — 3 —	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
5.	**Admittedly, there was no enquiry as contemplated under Rule 7 of the Rules 1999 before dismissing the petitioner from service.** **In view of the judgment and order dated 15.3.2004 passed by this Court in W.P.No. 594/2003 (Prakash Chandra Patel Vs. State of Chhattisgarh & others) wherein identical facts were involved, I am of the view that this petition deserves to be allowed. Accordingly, the petition is allowed and the termination order is quashed. There shall be no order as to costs.** **Consequently, I.A.No. 4181/2004 stand disposed of.**	**5145/2005 and I.A.No.** **Sd/-** **Satish K. Agnihotri** **Judge**

Thale

(पीछे देखिये)

24.5.06